

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0115**

**Sales and Use Tax**

**Calendar Years 1994, 1995, 1996**

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**ISSUE(S)**

**I. Gross Retail Tax – Taxability of Shop Supplies**

**Authority:** IC 6-2.5-3-2(a); 45 IAC 2.2-3-4; Information Bulletin #28

Taxpayer protests the assessment of use tax on the purchase of shop supplies.

**STATEMENT OF FACTS**

The taxpayer owns and operates an automotive collision repair shop. The taxpayer protests the assessment of use tax that was made by the auditor upon purchases of shop supplies.

**I. Gross Retail Tax – Taxability of Shop Supplies**

**DISCUSSION**

At issue is whether or not the taxpayer is liable for use tax on the purchases of shop supplies used in their automotive repair business. Specifically, the items in question are abrasives, masking tape and masking paper. The taxpayer argues that their estimating system is set up to collect sales tax on charges made for shop supplies used or consumed during the repair of a vehicle. Their estimating system is set up this way to complement the billing system used by insurance companies with whom the taxpayer works. Furthermore, the taxpayer argues that the state has already collected the tax once (when it was charged to the customer).

Pursuant to Indiana Code 6-2.5-3-2(a), "An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction". Further, as stated in Information Bulletin #28, "consumable supplies, such as masking paper and tape, oil dri, sandpaper, buffing pads, rags and cleaning supplies, used to repair and service motor vehicles are subject to use tax if purchased exempt from sales tax". The taxpayer is considered to be the end consumer of such items since ownership of said items is not being transferred to the customer.

**FINDING**

The taxpayer's protest is respectfully denied. The taxpayer is clearly liable for the use tax on shop supplies consumed in conjunction with the repair of their customers' automobiles.